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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,664

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Robert C. Otterson

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IPSOLON LLP

111 SW COLUMBIA

SUITE 710

PORTLAND, OR 97201

EXAMINER

PATEL, RITA RAMESH

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/816,664
Filing Date: April 01, 2004
Appellant(s): OTTERSON, ROBERT C.

MAILED
NOV 17 2006
GROUP 1700

Douglas D. Hancock
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/19/06 appealing from the Office action
mailed 9/28/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

A substantially correct copy of appealed claims 1-15 appears on pages 18-20 of the Appendix to the appellant's brief. The minor errors are as follows: claims 16-20 on pages 20-21 have been priorly withdrawn and fail to indicate 'withdrawn' status.

(8) Evidence Relied Upon

Poppitz (US Patent No. 6, 012, 645) is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

NEW GROUND(S) OF REJECTION

The following ground(s) of rejection are applicable to the appealed claims:
Claims 1-15 are rejected under 35 U.S.C. 103(a) as being obvious in view of Poppitz (US Patent No. 6,012,645). The new grounds of rejection indicate and clarify Poppitz's obviation over appellant's engine feature and mounting the engine on the chassis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poppitz (US Patent No. 6,012,645).

Poppitz teaches a cleaning apparatus having a pan-shaped housing used to clean horizontal surfaces, such as a floor. Mounted on the top of the housing is a spinner assembly having a tubular shaft rotatably mounted therein carrying tubular arms within the housing. Cleaning fluid flows through the spinner assembly into the arms and is discharged through nozzles having orifices mounted on the ends of the arms. Also, a three position valve controls the flow of water and disinfectant liquid through the cleaning apparatus (Abstract). The apparatus of Poppitz has caster wheels 57 mounted to the frame 49 of the chassis. The spinner assembly 36 reads on appellant's claim for a rotary valve; and nozzles 77, 78 read on appellant's claim for a nozzle mounted to each wand.

Poppitz teaches the cleaner 20 has a three position valve 26 for controlling the flow of water under pressure in hose 25 from a pump or other pressure source; the Poppitz reference clearly recites structure that a pump or other pressure source is the source of high pressure for this invention. One of ordinary skill in the art at the time of the invention would have readily envisaged equivalents in the art such as a motor or engine for starting and operating a pump for such a cleaning system. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an engine and pump system as delineated by appellant for motorizing and operating a high fluid pressure cleaning machine. High fluid pressure cleaning machines require pumps for creating a high pressure flow of liquid, and engines provide control of these pumps

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for operational ease. Poppitz's disclosure requirement of a pump or other pressure sources obviates the use of a pump-engine system in a high pressure cleaning machine. The machine of Poppitz is not indicated as a manual machine, the pump of Poppitz requires a force to commence the flow of liquid therethrough. It is commonly known in the art to use a motor/engine in combination with a pump of a high pressure water system to start the flow of liquid through the pump.

Although Poppitz fails to teach the pump, or an engine as specifically mounted to the top of the chassis, it would have been obvious to one of ordinary skill in the art at the time of the invention to mount the pump of said cleaning apparatus to the chassis to provide increased portability of the system and maintain all the operating components together on the chassis. The apparatus of Poppitz if formed such that the pump was made portable by attaching it to the top of the chassis would achieve the same results in providing a high pressure of liquid outflow, and concurrently achieve means for portability and increased usability. It has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. *In re Lindberg*, 93 USPQ 23 (CCPA 1952). Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the pump specifically to the washing apparatus since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). Integrally attaching the pump to the chassis of Poppitz would produce desired mobility of the entire apparatus, without producing any unexpected results.

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Mobility is preferred for such a washing machine because as taught by Poppitz, cleaner 20 is a portable unit that can be readily moved and used to clean floors and horizontal surfaces in numerous places (col. 2, lines 25-27). Incorporating the pump to the body of the chassis such that it is integral and mobile would have been readily envisaged by one of ordinary skill in the art to provide easier movement of the apparatus for cleaning floors and other horizontal surfaces.

Skirt 32 confines and concentrates the discharge of cleaning fluid to chamber 34 and provides for an intimate mixing and breakdown of the cleaning fluid with the air with chamber 34 forming mist 84, 91. The mixture of air and cleaning fluid is confined to chamber 34 and does not contaminate the air outside of the cleaner 20 (col. 2, lines 65-67; col. 3, lines 1-7). Clearly, the skirt 32 provides diffusing means, for interrupting the rotary spray pattern; the skirt prevents the spray pattern from spraying in a 360 degree field by forming a restricting wall that also extends vertically. Furthermore, the bottom ends 35 of Poppitz mounted to the chassis between the nozzles and the surfaces such that the diffuser plates occlude at least a portion of the path. The skirt confines fluid to the area under the device and prevents dissipation of mist therefrom. The skirt of Poppitz obstructs the spraying pattern of the rotational sprays and thus serves to occlude the spray path because it forms a restrictive wall. The skirt of Poppitz occludes along a length and width of a linear pattern of the washing machine; if the machine were driven forward to form a rectangular surface that is washed, the skirt of Poppitz would occlude the spray path along the length and width of the washing path.

Moreover, Poppitz's three position valve 26 may at once envisage appellant's claim for a first and second valve; a tube connects bottle 30 to valve 26, and hose 25 is connected from the pump supply to valve 26. The outlet to valve 26 leads to hose 24 which feeds to the chassis. When lever 27 is moved to the left position only water flows through valve 26 into hose 24; when level 27 is moved to the right position a venturi is created whereby the water flowing through valve 26 draws liquid from bottle 30 into the flowing water; the middle position of lever 27 closes valve 26 (col. 2, lines 38-46). The three way valve 26 obviates appellant's claim for a first and second valve for providing liquid to the rotary valve. It would be obvious to one of ordinary skill in the art at the time of the invention to use substitution of known equivalent structures. *In re Fout* 213 USPQ 532 (CCPA 1982); *In re Susi* 169 USPQ 423 (CCPA 1971); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *In re Ruff* 118 USPQ 343 (CCPA 1958). A three way valve is known to provide liquid flow from two bodies into a third pipeway, such as is achieved by the first and second valves claimed by the appellant. Said first and second valves is an equivocal means in the art for achieving regulation means of liquid flow, as notably achieved by the three way valve of Poppitz.

(10) Response to Argument

Appellant addresses claim objections to claim 14 on page 10 under the Argument section of the Reply Brief filed 10/19/06, however, the Argument section of a Reply Brief is solely for appellant's contentions with respect to each grounds of rejection and basis therefor, this does not include claim objections. Thus, section A labeled Claim

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Objections under the Argument section on page 10 is not appropriate. See MPEP 1205 37 CFR 41.37.

This Office Action is responsive to the arguments filed on 10/19/06. No claims have been canceled and no claims have been added. Claims 1-15 are pending. Claim 14 is objected to. Appellant's arguments have been considered, but are not persuasive.

First, appellant concedes that the Poppitz reference mentions that a pump or other pressure source is the source of high pressure water (col. 2, lines 36-38), however disagrees that it would have been obvious to one of ordinary skill in the art at the time of the invention to have been obvious to attach the pump of Poppitz to the chassis since it has been held that forming in one piece an article which formerly has been formed in two pieces and put together involves only routine skill in the art (Citing *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893)). Appellant further states that it is not instructive or applicable in the context of the invention defined in claim 1 and certainly does not lend any strength to the argument that the claim is obvious. However, the Poppitz reference clearly recites structure that a pump or other pressure source is the source of high pressure for this invention. One of ordinary skill in the art at the time of the invention would have readily envisaged equivalents in the art such as a motor or engine for starting and operating a pump for such a cleaning system. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an engine and pump system as delineated by appellant for motorizing and operating a high fluid pressure cleaning machine. High fluid pressure cleaning machines require pumps for creating a

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high pressure flow of liquid, and engines provide control of these pumps for operational ease. Poppitz's disclosure requirement of a pump or other pressure sources obviates the use of a pump-engine system in a high pressure cleaning machine. The machine of Poppitz is not indicated as a manual machine, the pump of Poppitz requires a force to commence the flow of liquid therethrough. It is commonly known in the art to use a motor/engine in combination with a pump of a high pressure water system to start the flow of liquid through the pump.

Moreover, it is noted by the Office that the appellant has failed to address the following motivation for combination of a pump-engine system in Poppitz: the apparatus of Poppitz formed such that the pump and engine was made portable by attaching it to the top of the chassis would achieve the same results in providing a high pressure of liquid outflow, and concurrently achieve means for portability and increased usability. It has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. *In re Lindberg*, 93 USPQ 23 (CCPA 1952). Appellant did not rebuke, or even address this obviation taught in the prior Office Action. The Office maintains its position that it would have been obvious to one of ordinary skill in the art at the time of the invention to make an old device portable or movable, without producing any unexpected results. Poppitz clearly recites that mobility is preferred for such a washing machine; cleaner 20 is a portable unit that can be readily moved and used to clean floors and horizontal surfaces in numerous places (col. 2, lines 25-27). Incorporating the pump and engine to the body of the chassis such that it is integral and mobile would have been readily envisaged by

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one of ordinary skill in the art to provide easier movement of the apparatus for cleaning floors and other surfaces.

Secondly, appellant argues that Poppitz fails to describe diffuser plates.

Appellant states that claim 9 calls out diffuser plate means for interrupting the rotary spray pattern in at least part of the 360 degree spray pattern and contends that Examiner's reading over Poppitz does not describe diffuser plates. However, Poppitz teaches plates used to occlude at least part of a 360 degree spray pattern. Evidence by appellant must be reasonably commensurate in scope with the claimed invention. See, e.g., *In re Kulling*, 897 F.2d 1147, 1149, 14 USPQ2d 1056, 1058 (Fed. Cir. 1990); *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 777 (Fed. Cir. 1983). Appellant's argument's are not commensurate in scope and thus, are not persuasive. In claim 9 appellant claims "diffuser plate means for interrupting the rotary spray pattern in at least part of the 360 degree rotary spray pattern"; in view of this limitation, the diffuser plate means are merely bounded by means for interrupting the rotary spray pattern in at least part of the 360 degree rotary spray pattern. Thus, appellant's arguments re Poppitz are not commensurate in scope because Poppitz teaches these features. Poppitz's skirt 32 reads on appellant's claims for diffuser plates. The Poppitz skirt performs the same function as appellant's claimed diffuser plate means; the skirt 32 prevents dissipation of mist 84, 91 so that the disinfectant contained therein disinfects and cleans surface 21. Skirt 32 confines and concentrates the discharge of cleaning fluid to chamber 34 and provides for an intimate mixing and breakdown of the cleaning fluid with the air with chamber 34 forming mist 84, 91. The mixture of air and cleaning fluid is confined to

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chamber 34 and does not contaminate the air outside of the cleaner 20 (col. 2, lines 65-67; col. 3, lines 1-7). Clearly, the skirt 32 provides diffusing means, for interrupting the rotary spray pattern; the skirt prevents the spray pattern from spraying in a 360 degree field by forming a restricting wall that also extends vertically. The skirt confines fluid to the area under the device, prevents dissipation of mist therefrom, obstructs the spraying pattern of the rotational sprays, and thus serves to occlude the spray path because it forms a restrictive wall. The skirt of Poppitz occludes along a length and width of a linear pattern of the washing machine; if the machine were driven forward, as hypothesized by appellant, to form a rectangular surface that is washed, the skirt of Poppitz would occlude the spray path along the length and width of the washing path.

In response to appellant's argument that there is no motivation to combine the references, the Office points out that there is a single reference being utilized: Poppitz (US Patent No. 6,012,645); therefore, appellant's claim that there is nothing in these references that provide any motivation that would lead on skilled in the art to which the invention pertains to make the claimed structure is considered moot. In arguendo, if appellant is referring to each citation of Poppitz as a "reference", then this claim is similarly moot because the invention of Poppitz is a single inventive idea and motivation for combining parts of Poppitz is obviated by the single disclosure of the Poppitz reference.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

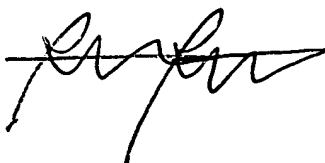
(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

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Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

Rita Ramesh Patel



A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Kathryn Gorgos

Conferees:

Michael Barr, SPE 1746


MICHAEL BARR
SUPERVISORY PATENT EXAMINER
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